

## The Honorable Richard A. Jones

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

SEATTLE SPERM BANK, LLC, a  
Washington limited liability company,  
Plaintiff,

V.

CRYOBANK AMERICA, LLC, a Texas limited liability company; MICHAEL BLAINE, a Texas resident; SANJAY KUMAR, a Texas resident, Defendants.

CASE NO. 2:17-cv-01487-RAJ  
DEFENDANTS'  
ANSWER TO COMPLAINT

Defendants Cryobank America, LLC, Michael Blaine, and Sanjay Kumar,

15 by and through its undersigned attorneys, hereby respond to the Complaint  
16 (“Complaint”) of Plaintiff, Seattle Sperm Bank, LLC (“SSB”) filed on October 2,  
17 2017. The numbered paragraphs below correspond to the same paragraphs in the  
18 Complaint. Defendants expressly deny all allegations not admitted.

19       Irrespective of the denials contained here, Defendants believe the cost of  
20 litigation far exceeds the cost of just paying the damages warranted if they were

found liable, and request that the Court proceed to a determination of damages with an assumed (though not admitted) liability for the actions alleged in the Complaint.

## I. PARTIES

1. Defendants lack sufficient knowledge to form a belief of this allegation.
2. Admit.
3. Admit
4. Admit

## **II. JURISDICTION AND VENUE**

5.1<sup>1</sup> Cryobank admits that the Court has subject matter jurisdiction over claims arising under the laws of the United States, pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1332(a)(1), but denies committing intentional misappropriation of trade secrets, tortious, or unlawful act anywhere, including under Washington law. Cryobank denies the amount in controversy exceeding \$75,000, exclusive of interest and costs.

5.2 Cryobank admits Blaine and Kumar traveled to Seattle, Washington to be employed by SSB, but denies committing intentional misappropriation of trade secrets, tortious, or unlawful act anywhere, including under Washington law.

<sup>1</sup> Plaintiffs' Complaint has two paragraphs numbered as "5."

1 Blaine and Kumar certainly did not accept their employment with a specific plan to  
2 learn how to operate a competing business and then quit and start the new business,  
3 and did not “take aim” at SSB’s business in Seattle, Washington, in order to cause  
4 SSB harm in Washington State.

5 6. Cryobank denies that jurisdiction is proper in Washington.

6 7. Cryobank denies that venue is proper in this district under 28 U.S.C. §§  
7 1391(b). It remains Cryobank’s position that this matter, if heard at all, should  
8 proceed in the U.S. District Court for the Northern District of Texas.

9 **III. FACTUAL BACKGROUND**

10 8. Defendants lack sufficient knowledge to form a belief of this allegation.

11 9. Defendants admit that SSB must comply with various laws.

12 10. Defendants admit that SOPs must be prepared, but deny that the value of the  
13 SOPs is anything close to that which SSB appears to believe.

14 11. Defendants lack sufficient knowledge to form a belief of this allegation.

15 12. Admit.

16 13. Admit.

17 14. Defendants admit that Kumar and Blaine had the described access, but deny  
18 that such access was particular to them; everyone at SSB had similar access to  
19 files.

20 15. Deny.

1 16a. Admit.

2 16b. Defendants do not know what a “business license” is. Defendants did create  
3 a limited liability company in March 2016.

4 16c. Admit.

5 17. Admit.

6 18. Admit.

7 19. Deny.

8 20. Defendants lack sufficient knowledge to form a belief of this allegation.

9 21. Deny.

10 **IV. CAUSES OF ACTION**

11 22. See responses referenced above.

12 23. Deny.

13 24. Deny.

14 25. Deny.

15 26. Defendants admit that the SOPs have a non-zero value.

16 27. Deny.

17 28. Deny.

18 29. Deny.

19 30. Deny.

20 31. See responses referenced above.

- 1 32. Deny.
- 2 33. Deny.
- 3 34. Deny.
- 4 35. Deny.
- 5 36. Deny.
- 6 37. Deny.
- 7 38. Deny.
- 8 39. See responses referenced above.
- 9 40. Deny.
- 10 41. Deny.
- 11 42. See responses referenced above.
- 12 43. Deny.
- 13 44. Deny.

14 **V. PRAYER FOR RELIEF**

15 Defendants are not now using the SOPs or other materials that were in their  
16 possession as a result of their employment with SSB. Defendants deny that the  
17 information which they possessed, which came from SSB, were treated as trade  
18 secrets, and thus none of the documents are trade secrets.

19 Defendants deny that any prayer or request for relief made by SSB is  
20 warranted, but believe that the cost of litigation of these matters will far surpass the

1 cost of simply paying damages for the allegations. As such, Defendants made an  
 2 offer of judgment to Plaintiff on January 3, 2018, which Plaintiff, summarily,  
 3 rejected. Despite Defendants' best efforts, Plaintiff has not approached the parties'  
 4 settlement discussions reasonably and in good faith.

5 For all these reasons, the Court can expect a motion to seek a determination  
 6 of damages and end this dispute in short order, either by hearing before a special  
 7 magistrate, directly before this Court, through enforcement of the parties'  
 8 commitments regarding ADR,<sup>2</sup> or by other means not yet determined.

9 Respectfully submitted,

10 NORRED LAW, PLLC

HACKER & WILLIG, INC., P.S.

11 /s/ Warren Norred  
 12 Warren V. Norred, PHV, TX 24045094  
 wnorred@norredlaw.com  
 515 E. Border St.  
 13 Arlington, TX 76010  
 Telephone (817) 704-3984  
 Facsimile (817) 524-6686  
 14 Co-Counsel for Defendants

/s/ Charles L. Butler, III  
 15 Charles L. Butler, III, WSBA #36893  
 charlie@hackerwillig.com  
 16 520 Pike Street, Suite 2500  
 Seattle, Washington 98101-1385  
 Telephone (206) 340-1935  
 Facsimile (206) 340-1936  
 17 Co-Counsel for Defendants

18  
 19 <sup>2</sup> See, Joint Status Report, Dkt. #17, pg. 3, lns. 8-10/11: "The parties have agreed to seek an  
 early mediation of this matter by no later than March 15, 2018. The parties are in the process of  
 choosing and retaining a mediator for this matter." Neither party particularly sought to complete  
 20 this mediation.

1                   **CERTIFICATE OF SERVICE**

2                   I hereby certify that on September 28, 2018, I electronically filed the foregoing with the  
3 Clerk of the Court using the CM/ECF system which will send notification of such filing to  
4 counsel for Plaintiff.

5                   /s/ Charles L. Butler, III  
6                   Charles L. Butler, III, WSBA #36893